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Viewing cable 06PANAMA1371, NEW LAW BACKSLIDES ON ANTI-CORRUPTION,

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Reference ID	Created	Released	Classification	Origin
06PANAMA1371	2006-07-12 21:55	2011-08-30 01:44	CONFIDENTIAL	Embassy Panama

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SUBJECT: NEW LAW BACKSLIDES ON ANTI-CORRUPTION,
CONSTITUTIONAL REFORMS
REF: 04 PANAMA 1963
Classified By: AMBASSADOR WILLIAM EATON FOR REASONS 1.4 (B) AND (D)

SUMMARY

¶1. (C) In a move contrary to his anti-corruption pledges, President Torrijos signed a law July 5 restoring some of the legislative immunities taken away by Panama's 2005 constitutional reforms. Attorney General Gomez may challenge the constitutionality of the new Law 25. One Supreme Court justice told us privately that he believes the law is unconstitutional, but it is doubtful that his view would ultimately prevail. The law deals a blow to Torrijos' anti-corruption bona fides and raises serious questions about the future of Panama's anti-corruption efforts. END SUMMARY.

LAW 25: FOXES GUARDING THE HENHOUSE?

¶2. (SBU) Law 25 gives the nine-member Supreme Court sole authority to investigate and prosecute members of the National Assembly for criminal acts. The law also raises the number of Supreme Court justices needed to strip a legislator of immunity from five to six. Both aspects contradict the provisions of the reformed Constitution.

¶3. (SBU) National Assembly members who pushed for the new law claim that it will protect legislators from politically-motivated prosecutions and safeguard their free speech. However, given the Assembly's history of refusing to investigate even the most flagrant cases of corruption within its ranks (see reftel), this latest move is seen by civil society and legal groups as an affront to transparency and their ongoing anti-corruption efforts.

¶4. (SBU) The new law also facilitates legislative immunity because the Supreme Court takes a minimum of 8-10 months to authorize an investigation. According to the Attorney General's Office, the Court has so far authorized only one investigation against a legislator. The Attorney General's office also believes Law 25 diminishes the principle of checks and balances, since there is no impartial investigator with Justices and legislators each having oversight function of the other.

¶5. (C) Also disturbing is the possibility the judicial and legislative bodies already colluded to pass the new law. The Deputy Secretary General at the Attorney General's Office told Econ Specialist that Law 25 is a "copy and paste" of text drafted by the Codifying Commission on judicial reform, whose coordinator is also a magistrate from the Superior Tribunal. He said this made him think the passage of Law 25 was already plotted between the Assembly and the Court.

AG GOMEZ AND A POSSIBLE SUPREME COURT CHALLENGE

¶6. (C) Having tried and failed to establish the law's unconstitutionality during the National Assembly debates, the Attorney General sent Torrijos a letter asking him to veto Law 25, a fact she made public after he signed the law. Gomez has since stated she does not discount the possibility of challenging the law's constitutionality, putting her in a public standoff with the president. At the Attorney General's request, the Ambassador will meet with her on July 14, where she may seek USG support.

¶7. (C) However, the chances of such a challenge are unclear. Supreme Court Justice Arjona, one of the few Justices trusted by the business community, told Econ Chief on July 10 that he believes the law is unconstitutional and a "very negative step backward" for Panama's anti-corruption efforts. Arjona thought Gomez may ask the Court for a formal review of the law. Otherwise, Arjona said civil society groups or others could band together to seek the Court's opinion. He gave no indication, however, on how the Court would likely decide. (Comment: Given Arjona's reputation as one of the few clean Justices and alleged possible collusion between the Court and Assembly, he may well be in the minority. End Comment.)

GOP BACKSLIDES ON ANTICORRUPTION PROMISES

¶8. (C) A particularly troubling aspect of the new law is President Torrijos' role in its passage. Although the National Assembly unanimously passed the measure in late June, it needed the President's signature to become law. Torrijos, who ran his presidential campaign on an "anti-corruption" platform, appears to be taking a clear step backward. It is unclear whether Torrijos signed the law to appease his own party, the majority in the Assembly, in the lead up to the special sessions on Canal expansion.

¶9. (C) Also troubling has been the general lack of media and other attention on the new law, despite the popularity of last year's anti-corruption reforms among the Panamanian public. The story was buried in the back of the major newspapers, when it appeared at all. A radio journalist told Econ Chief on July 10 he had received no calls from listeners on the subject, joking that Panama was "just waking up from the World Cup." (Comment: The GOP chose an opportune moment to slip this law through, with much of the country's attention diverted by the World Cup and possibly the Canal referendum. End Comment.)

COMMENT

¶10. (C) Comment: While Torrijos' move is disturbing, it was not unexpected by post. Given Torrijos' need for his party's and the Assembly's support on the Canal referendum, he was unwilling to go against the legislators. Also, with full National Assembly support for Law 25, Torrijos' veto would not have stopped the law's passage, although it could have sent a clear signal of his commitment to combating corruption. That Torrijos chose not to take a stand raises serious questions about the future of the GOP's anti-corruption efforts. Allegations of political corruption, rampant during the previous administration, have not disappeared with Torrijos' presidency. Law 25 deals another blow to Torrijos' anti-corruption bona fides and reinforces the suspicion held by those who thought his anti-corruption platform was merely lip service to gain votes. End Comment.

EATON